



March 19, 2002

Ms. Sarajane Milligan
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2002-1360

Dear Ms. Milligan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160036.

The Harris County Juvenile Detention Center (the “county”) received a request for grievances by staff and/or juveniles, employee performance sheets/forms, and assignment logs pertaining to a named individual (item nos. 1, 3, and 4 of the request) and grievances or inquiries regarding sexual inappropriateness between staff and juveniles (item no. 2). You state that the county has released information that is responsive to item nos. 1, 3, and 4. You claim that the information that is responsive to item no. 2 is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you raise and have reviewed the information you submitted.¹

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception encompasses information that another statute makes confidential. Chapter 261 of the Family Code governs investigations of child abuse and neglect. Section 261.201 provides in relevant part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes the county to withhold any responsive information that is substantially different from the submitted information. See Gov’t Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see also* Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor). We find that the submitted information consists of files, reports, records, communications, and working papers used or developed in investigations under chapter 261 of the Family Code. *See* Fam. Code §§ 261.103(a)(3)-(4) (suspected child abuse or neglect shall be reported to state agency that operates, licenses, certifies, or registers facility in which alleged abuse or neglect occurred or to agency designated by court to be responsible for protection of children), .301(a)-(b) (designated agency or responsible state agency shall investigate report of abuse or neglect), .405 (alleged abuse or neglect in juvenile justice program or facility shall be reported to and investigated by Texas Juvenile Probation Commission). You do not inform this office that the county has a rule that governs the release of this type of information, and we thus presume that no such rule exists. *See also* 37 T.A.C. § 349.503 (governing access to confidential information maintained by Texas Juvenile Probation Commission). Accordingly, we conclude that the submitted information is confidential in its entirety under section 261.201 of the Family Code. Therefore, this information is excepted from disclosure under section 552.101 of the Government Code as information made confidential by law.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling,

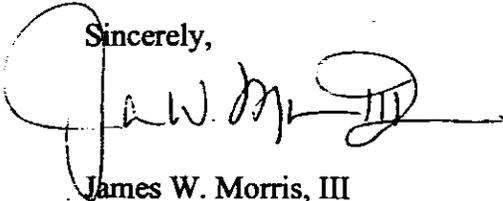
the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris III", with a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 160036

Enc: Marked documents

c: Mr. Lance C. Hamm
1000 The Houston Building
2323 Caroline Street
Houston, Texas 77004
(w/o enclosures)